

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Suzanne Donnelly	Team: Team # 2	CCRB Case #: 200707820	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/30/2007 7:20 PM	Location of Incident: 777 MacDonough Street; 73rd Precinct stationhouse	Precinct: 73	18 Mo. SOL 11/30/2008	EO SOL 11/30/2008	
Date/Time CV Reported Wed, 05/30/2007 7:25 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 06/04/2007 2:31 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Darryl Carr	07705	933558	073 PCT
2. SGT Dameion Cox	00760	918890	073 PCT
3. LT John Rafferty	00000	918191	073 PCT
4. POM Kaz Daughtry	28690	940052	073 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Maldonado	27387	940409	073 PCT
2. POM Ernest Kenner	08756	919237	073 PCT
3. POM Corey Martinez	00498	935257	073 PCT
4. POM Thomas Hardell	24109	936730	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Darryl Carr	Abuse: Officer Darryl Carr stopped § 87(2)(b)	
B.POM Darryl Carr	Force: Officer Darryl Carr used physical force against § 87(2)(b)	
C.POM Kaz Daughtry	Force: Officer Kaz Daughtry used a chokehold against § 87(2)(b)	
D.POM Kaz Daughtry	Force: Officer Kaz Daughtry used physical force against § 87(2)(b)	
E.LT John Rafferty	Force: LT John Rafferty used physical force against § 87(2)(b)	
F.POM Darryl Carr	Abuse: Officer Darryl Carr did not obtain medical treatment for § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
G.LT John Rafferty	Abuse: LT John Rafferty did not obtain medical treatment for § 87(2)(b)	
H.LT John Rafferty	Abuse: LT John Rafferty supervised the strip-search of § 87(2)(b)	
I.SGT Dameion Cox	Abuse: SGT Dameion Cox did not obtain medical treatment for § 87(2)(b)	
J.POM Darryl Carr	Abuse: Officer Darryl Carr threatened § 87(2)(b) with the use of force.	

Synopsis

On May 30, 2007, § 87(2)(b) called IAB to report an incident that occurred at 7:25PM that day. On June 1, 2007, § 87(2)(b) called IAB in regards to the same incident. On May 30, 2007 at approximately 7:20PM, PO Darryl Carr stopped § 87(2)(b) in front of 777 MacDonough Street in Brooklyn (Allegation A). PO Carr arrested § 87(2)(b) then pushed him into a gate and a building. He also pressed his foot on § 87(2)(b)'s groin (Allegation B). PO Kaz Daughtry responded to the scene, and placed § 87(2)(b)'s wife, § 87(2)(b) into a chokehold (Allegation C). PO Daughtry then pushed § 87(2)(b) swung at her, and kneed her (Allegation D). During the transport, LT John Rafferty slapped § 87(2)(b) across his face (Allegation E). § 87(2)(b) expressed to LT Rafferty and PO Carr that he needed medical attention because he was injured, but they ignored his request (Allegations F and G). At the 73rd Precinct stationhouse, LT Rafferty supervised the strip-search of § 87(2)(b) with three officers present and participating (Allegation H). After the strip-search, § 87(2)(b) spoke with SGT Dameion Cox and requested to go to the hospital, but SGT Cox said there was no one available who could take him (Allegation I). Finally, at the stationhouse, Officer Carr told § 87(2)(b) that he was going to use a Taser on him (Allegation J).

§ 87(2)(g)

[REDACTED]

This case was originally assigned to Inv. Laura Brown. It was reassigned to Inv. Kristen McConnell on May 27, 2008 and then reassigned again to Inv. Suzanne Donnelly on August 12, 2008.

Summary of Complaint

§ 87(2)(b) (Enclosures 3D-E, 5A-S, 6A)

§ 87(2)(b) was interviewed at the CCRB on June 4, 2007. At 6:30 PM on May 30, 2007, § 87(2)(b) was on MacDonough Street and Thomas Boyland Avenue in Brooklyn, talking to a friend who had bought him a soda at the corner store, Raffy's. His friend had forgotten the soda in the store, and § 87(2)(b) walked to the store to ask the workers if anyone had left a soda. § 87(2)(b) was told that no one did, and he stepped outside of the store to yell down the block at his friend. § 87(2)(b)'s friend walked to him and the two entered the store and exited. As they exited, § 87(2)(b) saw two officers, Officer Carr and Officer Martinez, identified by § 87(2)(b) when he saw their shields, speaking to a group of males on the corner, telling the men to get off the corner. The males left, and the officers continued walking down the block.

§ 87(2)(b) walked to his car, which had been parked at a fire hydrant for 5 minutes by this time because he wanted to be nearby in case the officers wanted him to move it. The officers walked towards him, and as they passed seconds later, Officer Carr asked him, "Do you have a problem?" § 87(2)(b) replied there was no problem, and he asked Officer Carr if he had a problem. Officer Carr muttered something unintelligible. § 87(2)(b) told Officer Carr there was "no need for that." After taking a few more steps, Officer Carr turned around and asked § 87(2)(b) for his ID, which § 87(2)(b) refused to provide. Officer Carr asked again and § 87(2)(b) refused, saying he would not unless Officer Carr provided him with the probable cause. Officer Carr pulled out his handcuffs and grabbed § 87(2)(b)'s left arm. § 87(2)(b) pulled back his arm to prevent

Officer Carr from handcuffing him, and then grabbed Officer Carr's other arm. § 87(2)(b) then thrust both arms up into the air over his head, trying to prevent the officers from grabbing him. Officer Martinez helped Officer Carr handcuff § 87(2)(b) by grabbing § 87(2)(b)'s right arm. The handcuffing took half a minute, Officer Martinez then called for backup.

During this time § 87(2)(b) repeatedly asked why he was being arrested, but the officers just told him to shut up. § 87(2)(b) admittedly did not shut up, and, "I guess [Officer Carr] got mad." Officer Carr lifted § 87(2)(b) off the ground, pushing him into the gate in front of 777 MacDonough Street, causing pain in § 87(2)(b)'s back. § 87(2)(b) sustained a bruise and scrape on the left side of his torso at waist level because of the initial contact with the gate. § 87(2)(b) also had a bruise higher up on the left side of his torso, under his arm, from when Officer Carr pushed and held § 87(2)(b) against the gate. Officer Carr then grabbed § 87(2)(b)'s right arm and swung § 87(2)(b) around towards the building, where his head, back, and shoulder hit the brick façade, causing bruises and scrapes to § 87(2)(b)'s shoulder and torso. § 87(2)(b) slid down the wall and collapsed, seated, to the ground on top of a stack of collapsed cardboard boxes. The impact with the wall had caused § 87(2)(b) to experience shortness of breath. § 87(2)(b) told Officer Carr that his back hurt and he wanted to go to the hospital. § 87(2)(b) was seated on the cardboard boxes, and Officer Carr held § 87(2)(b) down using his leg pressing into § 87(2)(b)'s groin. Officer Carr also held § 87(2)(b) from moving by placing his hand on § 87(2)(b)'s chest. § 87(2)(b)'s girlfriend, § 87(2)(b), appeared on the scene, and she began videotaping the incident with her mobile phone from about 5 feet away. She had been across the street at 786 MacDonough Street and had run across once she saw § 87(2)(b) and Officer Carr "tousling." Officer Carr repeatedly told § 87(2)(b) to get back.

§ 87(2)(b) told § 87(2)(b) to take his mobile phone and call the CCRB, but Officer Carr would not let § 87(2)(b) hand over the phone. § 87(2)(b) still in handcuffs, flung his phone at § 87(2)(b). Officer Carr intercepted the toss. § 87(2)(b) also tried to give § 87(2)(b) his shoes, which had come off during his physical altercation with Officer Carr. Officer Martinez stood in front of § 87(2)(b) in an effort to prevent her from videotaping. § 87(2)(b) sat still because he was in pain and could not resist arrest. "The whole block" had come out and was viewing the incident. During his CCRB interview, § 87(2)(b) provided the names of § 87(2)(b) Holmes, § 87(2)(b), and § 87(2)(b) as witnesses. He did not personally know all of these individuals, but subsequent to the incident, he had gone around the block looking for witnesses under the advice of § 87(2)(b)'s attorney, § 87(2)(b).

§ 87(2)(b) sat on the ground for approximately 15 minutes. During this time, observers were arguing with the officers and asking why they were treating § 87(2)(b) the way they were. § 87(2)(b) asked the same questions. The entire time, Officer Carr had his foot pressing into § 87(2)(b)'s groin. Officer Carr also pulled out a can of pepper spray, and pointed it toward § 87(2)(b) but he did not make any verbal threats of the use of the pepper spray. A marked van with 8-10 officers arrived while § 87(2)(b) was trying to get § 87(2)(b)'s phone. Officer Carr and an officer from the van, PO3, escorted him toward the van. PO 3 was identified through the CCRB investigation as Officer Thomas Hardell. As he was walking, § 87(2)(b) saw PO4, identified through the investigation as Officer Kaz Daughtry, put on batting gloves, and go "straight towards § 87(2)(b) and grabbed her by the neck ... her first reaction was to push him back, off her neck. When she pushed him, he swung at her, and she swung back at him. And I guess she hit him in the eyes, making his glasses cut" the bridge of his nose. At some point Officer Daughtry kneed § 87(2)(b) but when asked where, § 87(2)(b) clarified that Officer Daughtry had only attempted to kneed § 87(2)(b) in the head while she was bent over, being handcuffed. § 87(2)(b) was down on the cellar door just to the left of the 777 MacDonough Street steps. § 87(2)(b) did not observe any injuries on § 87(2)(b) because he was not allowed to see her.

While the officers were walking him to the van, § 87(2)(b) put his feet out and refused to get into the van because, "I'd rather for them to beat me up than my girlfriend ... I refused to get in the van. I put my feet out, said, 'No, I'm not getting in this van.'" When asked how he was put into the van, § 87(2)(b) said, "Eventually, I didn't have no shoes, so I had to get in. I had to fall in." The incident ended at this point because he and § 87(2)(b) were placed into vehicles: § 87(2)(b) into a police car and § 87(2)(b) in the farthest back seat in the prisoner van. Eight officers also got into the van. The officers he recognized were Officer Carr in the passenger seat, Officer Hardell, and PO5, identified through the investigation as LT John Rafferty.

The van stopped at Saratoga and Bainbridge, and LT Rafferty, who was driving the van, exited and opened the back door. He told the other officers to put the seatbelt on § 87(2)(b) and, from behind, LT Rafferty slapped § 87(2)(b) on the left side of his face, telling him to “shut up.” § 87(2)(b) had been screaming and making noise in the back of the van, repeatedly asking officers why he was being arrested. § 87(2)(b) also continued to tell the officers, LT Rafferty in particular, that his back was hurting and that he needed to go to the hospital. LT Rafferty ignored § 87(2)(b)'s request for medical attention and told § 87(2)(b) repeatedly to shut up because he was “faking it.”

When the van arrived at the 73rd Precinct stationhouse, LT Rafferty “snatched” § 87(2)(b) out of the van, and § 87(2)(b) told LT Rafferty to be easy because his back was hurting so much that he could not walk completely upright. When § 87(2)(b) was being taken back to a cell, he refused to walk because his back was hurting so intensely. He stated that he “just wanted to lay down, I didn’t care where I was laying down: on the floor, in the cell, on the desk. So I just laid right down on the floor, and that’s where they strip-searched me right there,” in the area immediately after the inside of the door to the cells. § 87(2)(b) continued to request medical attention from the officers and screamed about how much his back was hurting him. Four officers were present, including Officer Carr and LT Rafferty. § 87(2)(b) did not recall what the other two officers looked like, but both were dressed in uniform. § 87(2)(b) did not notice if any individuals were present in the cells. The officers took off his belt, shorts, and T-shirt. He was not cooperative at first and curled his body up to avoid being strip-search, but he later cooperated with them. During a telephone statement on July 24, 2006, § 87(2)(b) stated that the officers left his t-shirt on during the strip-search.

After the strip-search, § 87(2)(b) was taken to a cell. He started “making noise in the precinct, kicking on the gate, yelling, telling them my back is hurting me.” At 3-4AM, Sergeant Dameion Cox, identified when § 87(2)(b) saw his shield, came back to § 87(2)(b)'s cell. Sergeant Cox said that § 87(2)(b) was about to be taken downtown. § 87(2)(b) stated that he did not want to go downtown; rather, he wanted to be taken to the hospital. Sergeant Cox told § 87(2)(b) that the officers did not have an escort and he would have to wait until the following day. Officer Carr also came back to the cell, telling § 87(2)(b) that if he went to the hospital, he would not be seen by a judge until Friday. § 87(2)(b) said he did not care, that he wanted to go to the hospital regardless. Officer Carr ignored him, and § 87(2)(b) began yelling again. Officer Carr left the area and returned later, telling § 87(2)(b) that if he did not stop screaming, they would use the Taser on him. § 87(2)(b) said he did not care if they did; he only wanted to go to the hospital. Again Officer Carr left. At one point, Officer Carr told § 87(2)(b) he had heard § 87(2)(b) arguing with a couple of guys on the block, and that was the reason he had stopped him. § 87(2)(b) assumed Officer Carr meant § 87(2)(b) a man whom § 87(2)(b) sees in the neighborhood but does not personally know. At the time of the incident, both § 87(2)(b) and § 87(2)(b) were sitting and standing in front of 783 MacDonough Street. These individuals were separate from the two males who were standing on the corner and being told to leave by the officers. § 87(2)(b) did not recognize these individuals.

§ 87(2)(b) eventually relented and decided to get medical attention on his own after speaking with a woman in the precinct who stated he might see EMS downtown when he was taken there. The woman told him to “go through” the system if not and then immediately go to the hospital. § 87(2)(b) was released at 11PM on May 31, 2007. His case was dismissed. He stayed around the courthouse to hear the outcome of his girlfriend’s case until 12:30 – 1AM. § 87(2)(b) dropped off his brother (who had come to bring him some shoes) and then went directly to § 87(2)(b) Hospital at around § 87(2)(b). Because § 87(2)(b) had to provide transportation to his daughter for school, he did not stay at the hospital long enough to be examined. § 87(2)(b) estimated that he left the hospital unexamined at 7:30AM, but he returned later that morning. The doctor examined the bruises and scrapes, x-rayed his left arm and knee, and provided prescriptions for pain medicines. The x-rays showed nothing was broken.

§ 87(2)(b) later was told by § 87(2)(b) that Officer Carr and other officers returned to the scene of the incident because they learned that § 87(2)(b) and § 87(2)(b) had a small child who had been there at the time of the incident. Officer Carr told § 87(2)(b) that they were going to take § 87(2)(b)'s daughter to ACS because she had unfit parents. § 87(2)(b) had observable bruises, abrasions, and lacerations at the time of the interview. § 87(2)(b) documented each of them with photographs on May 31 that he provided to the CCRB. § 87(2)(b) also brought the cell phone of his girlfriend, § 87(2)(b) which contained 3 files of video

footage. Because the CCRB did not have any equipment to retrieve the video, § 87(2)(b) stated he would send the file via email to the investigator.

§ 87(2)(b) described the officers as follows: Officer Carr (name from badge): black, male, short, low hair cut, stocky, in uniform, 5'6", 200 pounds, clean shaven, § 87(2)(b) 30s; Officer Martinez (name from badge): Hispanic male officer with glasses, 5'8", uniform, 170-180 pounds, § 87(2)(b) 30s; Officer Hardell: white, bald male, § 87(2)(b) 40's, uniformed, clean shaven, 5'3", stocky 170 pounds, one of two escorts to van, and told § 87(2)(b) to calm down later in van; Officer Daughtry: light-skinned black male, low hair cut, 5'7", glasses, black and white batting gloves, § 87(2)(b) 30's or late 20's, in uniform, clean shaven, with black hair; the officer who was injured by his girlfriend; LT Rafferty: white male wearing a sky blue football jersey, shorts, with black hair, 6'1", clean shaven, 180, mid 30s, an officer mentioned this officer was a sergeant; SGT Cox: white male, medium build, uniform, mid 30s.

§ 87(2)(b) also took 10 pictures on May 31, 2007 and presented them into the record. They depict the following: Photo 1: front of 771-775 MacDonough St, looking toward 777 MacDonough St, which can be seen as the building with green bars and railings; Photo 2: front of 777 MacDonough St. Shows front door and steps leading to it; Photo 3: front of 777 MacDonough St. Shows area immediately to the left and down of photo 2: the space to the left of the front steps, including the cardboard boxes § 87(2)(b) was swung down onto; Photo 4: front of 777 MacDonough St. Shows same area as photo 3 except boxes removed and angle includes the green fencing which § 87(2)(b) was pinned against; Photo 5: wider shot of 777 MacDonough front steps; Photo 6: § 87(2)(b)'s right shoulder, showing a reddish-purple bruise of approximately 4 inches; Photo 7: § 87(2)(b)'s left torso, showing a purple bruise and cut at waist level (~3 inches long and 2 inches wide) and a purple bruise under his left arm at nipple height; Photo 8: § 87(2)(b)'s right arm, showing a purple bruise on his bicep, approximately 2 inches long; Photo 9: § 87(2)(b)'s left arm, showing a triangular scrape wound just below his wrist (2/3 inch long); Photo 10: § 87(2)(b)'s left leg, showing a C-shaped scrape and bruise (3 inches long), along with swelling to the right side of his kneecap.

Results of Investigation

Attempts To Interview Additional Victims/Witnesses (Enclosures 33A-N, 34A-Q)

On July 9, 2007, the investigator called § 87(2)(b) and left a voicemail. Also on July 9, 2007, the investigator called § 87(2)(b) and left a message with his mother. On the same date, the investigator called § 87(2)(b) and left a voicemail for her and called § 87(2)(b) who briefly described the incident and scheduled an interview for July 16, 2007. Letters were also mailed to all witnesses, victims, and complainants on July 9, 2007, and the letters were not returned to the CCRB. On July 10, 2007, § 87(2)(b) called the investigator and briefly described the incident. He agreed to come to the CCRB the following week but stated he would call the investigator back at a later date and time to schedule the appointment. On July 13, 2007, the investigator placed calls for § 87(2)(b) and all of the unscheduled victims and witnesses in the case. She left voicemails for § 87(2)(b) and § 87(2)(b). § 87(2)(b)'s telephone had an automated message which stated he was unavailable. Both of § 87(2)(b)'s telephone numbers did not allow incoming calls. § 87(2)(b) provided a telephone statement and requested that the investigator contact him the following week to schedule an appointment. On July 13, 2007, final please-call letters were mailed to § 87(2)(b) and § 87(2)(b). Another please-call letter was mailed to § 87(2)(b). On July 16, 2007, § 87(2)(b) missed his previously scheduled appointment, and he did not call the CCRB to cancel or reschedule the appointment. A missed appointment letter was mailed to him later that day. On July 24, 2007, § 87(2)(b) called the investigator and scheduled appointments for himself and § 87(2)(b) for July 31, 2007. On July 31, 2007, § 87(2)(b) and § 87(2)(b) failed to appear at the CCRB for their previously scheduled appointments; they did not call the investigator to cancel or reschedule the appointments. On September 26, 2007, the investigator called § 87(2)(b) and a voicemail was left for him. On October 3, 2007, the investigator called and left another voicemail for § 87(2)(b). On October 10, 2007, the investigator placed calls to § 87(2)(b) at both of his listed numbers. His home number was continuously busy, and a voicemail was left for him on his mobile phone. On October 11, 2007, the investigator made several contact attempts. A message for § 87(2)(b) was left with her daughter. § 87(2)(b) was contacted, at which time he stated that he was too busy to come to the CCRB to provide a statement and hung up on the investigator. § 87(2)(b) scheduled an appointment for October 16, 2007. § 87(2)(b) stated that he could come to the CCRB but he

needed to consult his schedule and call the investigator back. § 87(2)(b)'s number was out of service. An unidentified female picked up at § 87(2)(b)'s number and provided a different number at which § 87(2)(b) could be contacted. The investigator called that number and spoke with § 87(2)(b)'s mother-in-law, who took a message. § 87(2)(b) scheduled an appointment for October 18, 2007. On October 12, 2007, additional phone calls were made. Voicemails were left for § 87(2)(b) and § 87(2)(b). § 87(2)(b)'s mother-in-law took another message for her. § 87(2)(b)'s telephone number was out of service. On October 16, 2007, § 87(2)(b) failed to appear at the CCRB for his second scheduled appointment. He did not call to cancel or reschedule the appointment. On October 18, 2007, § 87(2)(b) did not appear for her appointment, and she did not call the investigator to cancel or reschedule. To date, none of the victims or witnesses has made any further attempts to contact the CCRB.

Officer Interviews

Lieutenant John Rafferty (Enclosures 12A-B, 13A-B)

Lieutenant John Rafferty was interviewed at the CCRB on February 12, 2008. On May 30, 2007, Lt. Rafferty of the 73rd Precinct worked a regular anticrime tour from 9:25AM to 6PM and an impact overtime tour as a Hot Spot supervisor from 6PM to 2:35AM. He worked the overtime with Officer Hardell in marked van # 5400, and believes he was in plainclothes and was the driver. Lt. Rafferty confirmed that a photograph of the incident shows him wearing a blue football jersey and shorts. His memo book contains the following entries: 1920: 10-85 (need additional unit) discon, resisting, and OGA, assault to an MOS, 1 MOS to hospital with minor injuries, facial lacerations/bruises, corner MacDougal and Boylan. PO Carr was the arresting officer.

Lt. Rafferty responded to this incident because he received an 85, a radio call for additional officers. He was mobile at the time and it took 1-2 minutes for him to arrive. He does not recall any details included in the radio run. When Lt. Rafferty arrived on the scene at 777 McDonough Street, § 87(2)(b) was already handcuffed and was standing. (Lt. Rafferty did not recognize a photograph of § 87(2)(b) but he did recognize photographs of the incident location and of § 87(2)(b). He also recognized himself in a photograph and stated that Officer Daughtry was behind him.) Officers Carr and Martinez were present, and informed Lt. Rafferty that § 87(2)(b) had been stopped for disorderly conduct; Lt. Rafferty does not specifically remember whether or not a summons was being issued but believes § 87(2)(b) was going to be removed to the stationhouse. A crowd of approximately 15 people was forming, and the people in the crowd were not happy: they were screaming, yelling, and using a lot of profanity. Officers Martinez and Carr were trying to keep their backs to the wall of the building, and trying to keep the crowd in front of them. When Lt. Rafferty arrived, he told the officers, "Let's get this guy in the car," and officers started to move § 87(2)(b) to a police car. Lt. Rafferty does not recall how § 87(2)(b) was being contained, who was holding him, what his demeanor was, or whose car he was placed in. He did not see any officer use any physical force against § 87(2)(b) and did not see him slammed against a wall or gate, did not see any injuries on § 87(2)(b)'s body, and did not ever hear him request medical attention. He did not see § 87(2)(b) being searched. At about the time officers began taking § 87(2)(b) to a car, a female (identified by the CCRB as § 87(2)(b)) jumped out of the crowd and began whacking Officer Daughtry in the face with a shoe. She was also yelling and screaming, but Lt. Rafferty does not recall what she was saying. Officer Daughtry then tried to grab the shoe from her. No officers swung at § 87(2)(b) and Lt. Rafferty did not witness any officer grabbing § 87(2)(b) around the neck, nor did he do this himself. Minimal force was used to get § 87(2)(b) handcuffed, such as grabbing her hands and putting them behind her back. Lt. Rafferty may have assisted in this, saying there is a "good chance" that he grabbed her arm, but he does not specifically remember doing so. He does not recall if § 87(2)(b) appeared intoxicated.

Lt. Rafferty does not know of anybody else being issued a summons during this incident. He stated that because the crowd was getting agitated, he probably thought it was best to just get everybody out of the area as quickly as possible. He did not see any officer with his pepper spray in hand, but noted that under the circumstances it would have been acceptable for an officer to use pepper spray, because Officer Daughtry was being struck. He did not see any injuries to the female or hear her request medical attention. Lt. Rafferty does not know if § 87(2)(b) was transported to the stationhouse in his car, he does not remember anything specific about § 87(2)(b) after leaving the scene of the incident and during the incident his attention was mostly focused on § 87(2)(b). He does not recall or know anything of officers stopping the car in order to slap § 87(2)(b) in the face.

§ 87(2)(b) was not strip searched at the stationhouse. Strip searches are never conducted in the hallway, but in closed quarters. If he had been strip searched, Lt. Rafferty would have known about it: he would have supervised the search and noted it in the command log, and the officers conducting the search would have noted it in their memo books. Lt. Rafferty explained that one does not get strip searched for disorderly conduct, but only to retrieve secreted contraband. In a circumstance like this one, the only reason § 87(2)(b) would have been strip searched would be if officers had seen him place a bag down the front of his pants or something like that, and again, Lt. Rafferty would know if a strip search was being conducted. Lt. Rafferty was shown photographs of § 87(2)(b)'s injuries and stated that he was not aware of § 87(2)(b) being injured during this incident. He stated that if anyone gets injured, officers request an ambulance at the stationhouse, and if anyone has major injuries, they are removed to the hospital. Lt. Rafferty did not hear any officer use profanity towards anyone and he did not hear any officer threaten force to anyone, nor did he do any of these things himself. Lt. Rafferty does not recall seeing anyone take photographs of the incident, but stated that "it happens every day" and officers are aware that their actions are frequently recorded.

Officer Kaz Daughtry (Enclosures 16A-D, 17A-C)

Officer Kaz Daughtry was interviewed at the CCRB on March 11, 2008. On May 30, 2007, Officer Daughtry worked from 1700 to 0135 hours. His assignment was Impact Auto and he was working in uniform, in marked RMP # 1628, with Officer Maldonado. His memo book entries regarding this incident read: 1930 Backing 73 Special Projects LT c/o Boyland St. MacDougal [sic] St. I observe a MOS effecting a lawful arrest of a male black, I also observe a female black standing next to all of us. I advise the female black to get back, female black didn't respond to my lawful order, I then use my rt hand and advise the female black to get back again, I then turned around and then the female black began to assault me, female black began hitting me with her shoe, furthermore punched me about the face w/ a closed fist causing cuts and laceration about my face, which was photograph by PO Maldonado SH § 87(2)(b). Female black placed under lawful arrest by PO Carr. I was removed to § 87(2)(b) Hospital via RMP 1628. Treated by Doctor Gus. Perp § 87(2)(b). Brooklyn NY 11212 § 87(2)(b). PO Carr arresting officer. 2100 Lt. Barron filling out LOD paper-work.

Officer Daughtry and Officer Maldonado drove by the incident location and noticed the marked police van with a crowd of about 10-15 people in the area, and noticed officers arresting a male. Approximately 5-6 officers were present, including Officer Carr and Lt. Rafferty, and possibly Officers Hardell and Martinez. Officer Daughtry does not know what the male (identified through investigation as § 87(2)(b)) was being arrested for, and generally assumes when he sees police officers handcuffing an individual that they have already established probable cause. When Officer Daughtry arrived, he observed § 87(2)(b) with one hand cuffed and one uncuffed, walking towards the van with officers, including Officer Carr. Officer Daughtry approached them to help cuff § 87(2)(b) and bring him to the van. Officer Daughtry does not recall what § 87(2)(b) was doing or whether or not he was being compliant. The crowd of people was yelling and screaming, and when Officer Daughtry got to § 87(2)(b) and the officers, he told a black female, § 87(2)(b) who was "pretty much standing on [his] back," to stand back a little bit. She refused, and Officer Daughtry told her at least 10 more times, and also put his right hand onto her arm to direct her back, but did not push her back. § 87(2)(b) continued to refuse to move back. Officer Daughtry turned his back towards her, and then felt a push. He turned around, and § 87(2)(b) hit him in the face with a shoe, and then, while he was startled from being hit with the shoe, punched him in the face with a closed fist. Officer Daughtry had been wearing glasses, and the glasses broke and fell off of his face, and cut the left side of his nose. Officer Daughtry presented a photograph of the left side of his face which shows a ½ inch cut along the left side of his nose; he stated Officer Maldonado took this photograph when they got to the precinct after this incident. After § 87(2)(b) hit him, "everybody" came to help right away, "cause you're not gonna let somebody hit a police officer and just walk away." Officer Daughtry grabbed § 87(2)(b) by her clothes around her upper body. He did not grab her neck and did not see any other officer grab her neck. Officer Daughtry initially stated that he went to grab § 87(2)(b) and Officer Maldonado grabbed her as well, and they took her down to the ground and handcuffed her, but later stated that he did not know how she got onto the ground but that she probably fell to the ground. He does not know how § 87(2)(b) was positioned when she was on the ground. It took them about two minutes to handcuff § 87(2)(b) and Officer Daughtry stated, "she was a big girl," in explanation for this. Officer Daughtry did not say, "That bitch hit me in the face" or curse at § 87(2)(b). He did not

observe any injuries to § 87(2)(b) or hear her complain of being injured. Officer Daughtry did not wear gloves during this incident.

After § 87(2)(b) was handcuffed, Officer Daughtry and Officer Maldonado took her and placed her in their RMP. Immediately after they put her in the car, Officer Daughtry went back and looked on the ground for the lens of his glasses while another officer (Officer Daughtry does not remember which) stayed in the car with § 87(2)(b). Officer Daughtry can see without his glasses but he was “worrying about [himself] at that time” and not paying attention to what was going on with § 87(2)(b). He does not know if § 87(2)(b) was fighting with officers. After finding his lens, Officer Daughtry sat in his patrol car, with § 87(2)(b) in the back. He felt annoyed about his glasses being broken. The other officers were still out dealing with § 87(2)(b) and with the crowd. While the two of them were in the car, § 87(2)(b) said to Officer Daughtry, “I’m only gonna get a ticket for this so you guys are just wasting your time, don’t worry, you can write me a ticket.” Officer Daughtry said, “Ticket for what?” and § 87(2)(b) said, “Ticket for disorderly conduct, so you’re just wasting your time, rookie.” She said a lot of other things but this is the only thing that stood out to Officer Daughtry; he was incredulous that she would act that way after having hit a police officer.

Officer Daughtry did not have any interactions with § 87(2)(b) other than initially walking with him to the van. § 87(2)(b) was not saying anything at that time. He did not have physical contact with § 87(2)(b) while walking him to the van. He did not see § 87(2)(b) having trouble walking and § 87(2)(b) did not appear to be injured, and he did not hear § 87(2)(b) request medical attention or complain of back pain. He did not see § 87(2)(b) throw a telephone. § 87(2)(b) was transported in the prisoner van. He did not see any officers grab anyone around the neck and he did not see any officers take out their pepper spray, nor did he take out his. Officers were not able to find the shoe that § 87(2)(b) had struck Officer Daughtry with. Officer Daughtry was aware that people in the crowd were recording them with camera phones, but he does not specifically remember § 87(2)(b) recording.

When they arrived at the stationhouse, Officer Maldonado stayed in the car with § 87(2)(b) and Officer Daughtry went into the stationhouse to wash his face because he also had scratches on his face from § 87(2)(b). Lt. Barron, who had just arrived at the stationhouse and had not been at the scene of the incident, told Officer Daughtry to go to the hospital, and Officer Daughtry left for the hospital 15 minutes after arriving at the stationhouse. He did not see § 87(2)(b) or § 87(2)(b) again. He did not strip search § 87(2)(b) or process either of the arrests.

Officer Daughtry did not recognize photographs of the incident location. He did not see § 87(2)(b) seated on a cardboard box during the incident. When he was shown photographs of § 87(2)(b)'s injuries, he stated he did not see any such injuries on § 87(2)(b) and repeated that he did not hear § 87(2)(b) complain of injury. Officer Daughtry recognized himself in a photograph and stated that it showed him disoriented, looking for his glasses, and also recognized his lieutenant wearing a 21 jersey. He did not recognize other officers in the photographs. § 87(2)(b) was charged with assault; Officer Daughtry believes Officer Carr was her arresting officer.

Officer Darryl Carr (Enclosures 14A-C, 15A-C)

Officer Darryl Carr was interviewed at the CCRB on February 14, 2008. On May 30, 2007, Officer Carr worked from 1800 to 0235 hours. His assignment was “Command Viper 8” and he was working overtime. He was assigned to a footpost, at McDonough and Thomas Boyland Streets. He was working in uniform. Officer Carr’s memo book entries regarding this incident read: 1920: 2 under at MacDougal and Thomas Boyland. § 87(2)(b) § 87(2)(b) for discon and resisting and § 87(2)(b) arrested for assault 2 on PO Daughtry shield number 28690 tax 940052.

Officer Carr was walking his footpost when he noticed § 87(2)(b) saying something to two females. He did not hear what § 87(2)(b) said, but he noticed that the females did not like it, because he heard the females repeatedly tell § 87(2)(b) to leave them alone, shouting at him. Officer Carr approached and the two females walked away, leaving just § 87(2)(b) and Officer Carr asked § 87(2)(b) what was going on. His intention on approaching and speaking to § 87(2)(b) was just to find out what was going on, because he had seen the two females become agitated. Officer Carr does not know where the two females went, and he did not notice if § 87(2)(b) was standing by his car. § 87(2)(b) was wearing jeans, a t shirt, and flip flops or beach shoes.

When Officer Carr approached § 87(2)(b) “went wild.” Officer Carr said, “Is everything alright?” and § 87(2)(b) said, “None the fuck your business,” and became agitated. § 87(2)(b) was making statements like, “Get away from me,” and said something about being arrested a few weeks earlier. While Officer Carr was speaking with § 87(2)(b) another foot post officer (Officer Carr does not recall who) came over. Officer Carr tried to calm § 87(2)(b) down, saying, “It’s no big deal, just what’s going on?” but this did not work and § 87(2)(b) became very loud. There were no other civilians in the area; § 87(2)(b) was not talking to anybody else and had not been talking to anyone other than the two females who left. Officer Carr then asked § 87(2)(b) for his ID. Asked what his intention was in doing so, Officer Carr said, “Well he wouldn’t calm down, he became real abusive with his words and stuff like that, possibly maybe arresting him, if anything take him back for discon...” and stated that at that point a crowd started to form, because § 87(2)(b) was being so loud, unnecessarily, and was using obscenities. When Officer Carr asked § 87(2)(b) for ID, § 87(2)(b) refused to provide it. It “took him a long while before he did.” Officer Carr was trying to make § 87(2)(b) stand still, but he kept moving around, and he also would not take his hands out of his pockets. Officer Carr was trying to control § 87(2)(b) by telling him, “Stand up over here, take your hands out of your pockets,” and so forth. He does not recall if he did anything to physically restrain § 87(2)(b) at that point, but said, “Maybe to try to get him to move over.”

Officer Carr called for additional units because he and the other officer could not calm § 87(2)(b) down and he could not control him. He does not remember exactly what he said in his call for back up. Then he tried to place § 87(2)(b) under arrest, but § 87(2)(b) still would not give his hands. He decided to place § 87(2)(b) under arrest because “basically he wouldn’t give us ID and he wouldn’t keep his hands out of his pocket.” Officer Carr began struggling with § 87(2)(b) trying to get him into handcuffs. Officer Carr was able to get one handcuff on § 87(2)(b) and § 87(2)(b) was trying to pull away from him. They were up against a gate, and then fell sideways, and § 87(2)(b) fell atop the other officer, and Officer Carr fell atop § 87(2)(b) (“or something”). Officer Carr stated that § 87(2)(b) was not pushed up against the gate, but that it was a struggle to get § 87(2)(b) handcuffed because he would not give up his hands. He was resisting. He kept “throwing his hands” and pulling his arm under himself. His one cuffed hand was alongside him. Officer Carr did not punch or kick § 87(2)(b) nor did the other officer. Eventually they were able to stand § 87(2)(b) up, and get him handcuffed. At that point, a police van arrived. Officer Carr remembered that Officer Daughtry arrived on the scene, and when he was shown a photograph of the officers, recognized Lt. Rafferty. He does not recall which other officers responded. A crowd of 3-4 civilians appeared, including § 87(2)(b)’s girlfriend (identified by the CCRB as § 87(2)(b) and officers repeatedly told them to back up.

After § 87(2)(b) was handcuffed, he calmed down a little bit. But then, § 87(2)(b) started to “charge at” Officer Carr, and then Officer Daughtry “jumped out the van and jumped in between.” § 87(2)(b) then took her shoe off and repeatedly hit Officer Daughtry in the face with it. When § 87(2)(b) saw what § 87(2)(b) had done, he got “excited,” so Officer Carr tried to quickly rush him into the van. § 87(2)(b) was not compliant with going into the van; Officer Carr “really had to move him into the vehicle, almost like picking him up and taking him in cause he was trying to get away.” Officer Carr was able to see Officer Daughtry being hit, but he focused on taking § 87(2)(b) into the van, because § 87(2)(b) was trying to get away from him and all of the other officers were focused on the situation with Officer Daughtry. Other officers did not come to assist with putting § 87(2)(b) in the van, and no other officers were in the van once Officer Carr put § 87(2)(b) inside it. Officer Carr put § 87(2)(b) into the back of the van, and he sat with him there to make sure § 87(2)(b) did not get out. Officer Carr saw officers place § 87(2)(b) in handcuffs, and walk her over to another car. He did not see § 87(2)(b) on the ground. He did not see an officer grab § 87(2)(b)’s neck, or hear any officer use profanity. § 87(2)(b) did not appear injured and he never heard her complain of being injured. He does not recall if civilians were recording the incident. He does not know if § 87(2)(b) was intoxicated during the incident. § 87(2)(b)’s behavior changed slightly once he was in the van, because there was no way for him to get out.

Officer Carr and one other officer transported § 87(2)(b) back to the stationhouse in the van. The van was never stopped en route in order to do anything to control § 87(2)(b). Officer Carr does not recall if Lt. Rafferty was in the van. Lt. Rafferty did not slap § 87(2)(b). At the stationhouse, § 87(2)(b) did not have shoes: he had lost them during the incident and somebody brought them to the stationhouse for him. § 87(2)(b) was not strip searched, and Officer Carr pointed out that there was no reason for § 87(2)(b) to be strip

searched. Officer Carr fingerprinted and photographed § 87(2)(b) and believes § 87(2)(b) was compliant during these activities. He escorted § 87(2)(b) back to the cells. Asked if he threatened to Taser § 87(2)(b) Officer Carr said, "I can't use a Taser, I don't have one." He stated he did not shake his pepper spray at § 87(2)(b). § 87(2)(b) never complained to Officer Carr of any injuries and did not ask for medical attention. Officer Carr did not use force with § 87(2)(b) aside from trying to handcuff him. Inside of the stationhouse, Officer Carr did hear § 87(2)(b) screaming and yelling, when § 87(2)(b) was walked through the cells and § 87(2)(b) saw her. § 87(2)(b) was apparently trying to speak to § 87(2)(b). Officer Carr does not know what her response was.

Officer Carr stated there was no wall against which he could have thrown § 87(2)(b). Shown photographs of the incident location, Officer Carr stated he did not recall § 87(2)(b) ever being seated on the cardboard boxes. Shown photographs of § 87(2)(b)'s injuries, Officer Carr stated that he did not observe any of those injuries on § 87(2)(b) and did not use force that would have caused any such injuries, and remarked that the injuries visible in the photographs were "apparently old as hell." He stated that maybe something happened when § 87(2)(b) hit the ground, but § 87(2)(b) never mentioned it.

Officer Michael Maldonado (Enclosures 10A-B, 11A-B)

Officer Michael Maldonado was interviewed at the CCRB on February 6, 2008. On May 30, 2007, Officer Maldonado worked from 1700 hours to 0135 hours as the recorder in RMP # 1628, with Officer Daughtry. His assignment was as the Impact Lieutenant's operator, but no lieutenant was with them at the time: Lt. Barron had just told them to go out and help with the neighborhood. Officer Maldonado was in uniform. His memo book entries regarding this incident read: 1925: assisted in 2 under by PO Carr, witness PO Daughtry punched several times with fist and slipper. 2010: assigned to drive PO Daughtry to § 87(2)(b) Hospital to treat his injuries. 2130: dismissed from § 87(2)(b) 2200: stationhouse. 0135: end of tour.

At approximately 7PM on May 30, 2007, an officer placed an arrest over the radio, and as he was two blocks away from the arrest location, Officer Maldonado responded. He did not respond because of any details given over the radio, just because it is better to have as many officers present as possible for an arrest, for safety. They drove to the location, 777 McDonough Street, and when they arrived Officer Maldonado saw that Officer Carr had one male (identified through investigation as § 87(2)(b)) under arrest. Officer Maldonado does not know what § 87(2)(b) was being arrested for. § 87(2)(b) was talking, and cursing, saying "What's going on, why the fuck are you arresting me," but he was not being violent and his behavior was "just the usual." § 87(2)(b) was already handcuffed, standing on the sidewalk approximately 5 feet from a police van. There were approximately 6 officers present, including a sergeant, who was instructing Officer Carr to get § 87(2)(b) into the van as quickly as possible and instructed Officer Maldonado to perform crowd control because there was a crowd of 3-4 people, and people were looking out of windows and coming out of apartment buildings in the area. The people were 5-6 feet away from § 87(2)(b) and Officer Carr. The people in the crowd were saying, "That's fucked up, he didn't do anything, why are you arresting him?" Officer Maldonado performed crowd control by "distracting" them, telling the people, "Everything's okay, he did something, I wasn't here, I don't know what happened, if you want to come down to the precinct and find out what happened you're welcome to..." While he was performing crowd control, Officer Maldonado had his back to Officer Carr and § 87(2)(b).

Officer Maldonado never had physical contact with § 87(2)(b) and he did not do anything physical to control the crowd. He heard a commotion and a scuffle, and screaming, and turned around to see a heavyset female (identified through investigation as § 87(2)(b)) swinging at Officer Daughtry with both hands, holding a slipper in one and using a closed fist to strike Officer Daughtry with the other. Officer Maldonado saw § 87(2)(b) strike Officer Daughtry in the head 5-6 times, having caught him by surprise. Officer Daughtry was able to then get her hands behind her back and handcuff her himself very quickly. Officer Maldonado stated that he did not really see what was happening and he did not "see any officers do anything bad to her," he did not see any officer use a chokehold and he didn't see § 87(2)(b) taken to the ground, she was standing for all of the time that Officer Maldonado saw her. He did not see either § 87(2)(b) or § 87(2)(b) get injured and did not hear either of them complain of injury, or ever request medical attention. § 87(2)(b)'s behavior was like § 87(2)(b)'s: she was cursing but not really physically violent.

Officer Maldonado was only on the scene for a couple of minutes after this point. § 87(2)(b) was put in the van, and Officer Maldonado believes § 87(2)(b) was placed in the van as well; he drove back to the stationhouse with Officer Daughtry and does not believe he transported either of the prisoners. At the stationhouse, Officer Maldonado did not interact with either of them: he took photographs of Officer Daughtry's face and then escorted him to the hospital. Officer Daughtry had lacerations to his head, and swelling and bruising.

The layout of the stationhouse with respect to the prisoner cells is as follows: There is a ramp in the back of the stationhouse, which is how prisoners get escorted inside. The ramp leads into a small hallway. If you go straight, there is the desk on the right, and if you make a left in the hallway, it goes to the cells. From the desk, one can hear noise in the cells. When Officer Maldonado and Officer Daughtry returned from the hospital, they remained in the stationhouse doing paperwork regarding this incident, filling out Line Of Duty paperwork and AIDED cards. No other officers were injured during this incident. A Taser was not used on either prisoner. Officer Maldonado did not hear any officer use profanity, and he did not see any officer take out his pepper spray. Neither of the prisoners were strip searched. He does not recall seeing any of the civilians with their cell phones out. Officer Maldonado confirmed recognition of the incident location, and he recognized § 87(2)(b) in the photograph, as well as himself and possibly his partner.

PO Corey Martinez (Enclosures 18A-B, 19A-B)

Officer Corey Martinez was interviewed at the CCRB on July 1, 2008. Officer Martinez did not know what hours he worked on May 30, 2007, and he did not have his memo book during his interview because he was notified for his interview verbally, and was not given the incident date. However, he was on duty at 7:20 pm, and was in uniform and working on foot. Officer Martinez was with Officer Carr when Officer Carr stopped § 87(2)(b) in front of 777 McDonough Street on May 30, 2007, at approximately 7:20 pm. He does not know why Officer Carr stopped § 87(2)(b) and does not know "whatever violation he saw," or what § 87(2)(b) was doing before Officer Carr stopped him, and he did not notice if § 87(2)(b) was talking to anybody on the street. It was Officer Carr's decision to stop § 87(2)(b) and he did not say anything to Officer Martinez about stopping § 87(2)(b). Once § 87(2)(b) had been stopped, "the altercation became violent very quickly." Officer Carr approached § 87(2)(b) and started asking him some questions—Officer Martinez does not know what these questions were, but believes that Officer Carr did ask § 87(2)(b) for ID—and § 87(2)(b) "basically charged towards Officer Carr" and then they began to fight, wrestling with each other, so Officer Martinez, who had been standing 3-4 feet away from Officer Carr when Officer Carr was questioning § 87(2)(b), came to assist Officer Carr in handcuffing § 87(2)(b). Officer Martinez stated "honestly, it happened so fast" that he did not know how Officer Carr and § 87(2)(b) had come to be fighting with each other, but stated that § 87(2)(b) initiated the physical contact. Officer Martinez did not hear § 87(2)(b) say anything before he started fighting with Officer Carr. Officer Martinez does not know if Officer Carr had decided to arrest § 87(2)(b) before having physical contact with § 87(2)(b). Officer Carr did not say anything to Officer Martinez about arresting him.

Officer Martinez started going towards them as soon as they were physically engaged because he knew something was not right. When Officer Carr and § 87(2)(b) started wrestling, they both fell over a gate, and both ended up on the ground. At that point, seconds after they fell onto the ground, Officer Martinez helped Officer Carr handcuff § 87(2)(b). Officer Martinez does not know what the physical fight between Officer Carr and § 87(2)(b) consisted in other than "wrestling," he did not see Officer Carr punch or kick § 87(2)(b). § 87(2)(b) was never put against a wall; because he was still resisting and moving about after he was handcuffed, Officers Martinez and Carr held him to the floor until assistance arrived. § 87(2)(b) was on the floor on his back, with his hands cuffed to the back. Officer Martinez does not know if Officer Carr put his foot in § 87(2)(b)'s groin to keep him from moving. Officer Martinez himself did not punch or kick § 87(2)(b) and stated that he did not know which of them actually cuffed § 87(2)(b) but it took both of them to do it because § 87(2)(b) was resisting.

Assistance arrived after § 87(2)(b) was handcuffed, but when § 87(2)(b) was still struggling and was on the ground. Five or more additional officers arrived. At that point, a crowd of 15 or more civilians had arrived, and the back-up officers helped to keep the crowd back and helped get § 87(2)(b) into a vehicle to transport him to the precinct. The crowd of civilians were "just observing" what was happening; Officer Martinez does not know if any of them were recording the incident. Officer Martinez was not aware of and did not witness any

member of the crowd having any type of physical interaction with any officer, he was not aware of anybody other than § 87(2)(b) being arrested, and specifically was not aware of a female from the crowd hitting an officer with a shoe. § 87(2)(b) was placed in the police vehicle and transported back to the precinct. Officer Martinez does not remember if he helped put § 87(2)(b) in the vehicle or who did this, he did not transport § 87(2)(b) to the precinct and he does not know who did. After § 87(2)(b) was placed in the vehicle, Officer Martinez left the area and continued his patrol, he did not go to the stationhouse and he was not involved in processing § 87(2)(b)'s arrest. Officer Martinez left the scene 5-10 minutes after Officer Carr originally stopped § 87(2)(b). § 87(2)(b) did not appear to be injured to Officer Martinez, and Officer Martinez is not aware of anything occurring during the struggle that would have caused injury to § 87(2)(b). Officer Martinez did not hear § 87(2)(b) complain of being injured or request medical attention.

Officer Thomas Hardell (Enclosures 20A, 21A-B)

Officer Thomas Hardell was interviewed at the CCRB on July 9, 2008. On May 30, 2007, Officer Hardell worked from 0925 hours to 0235 hours. From 1800 to 0235 hours, he was working Impact Overtime with Lt. Rafferty in a marked van, and was in uniform. He has no memo book entries regarding this incident. At approximately 7:20 pm on May 30, 2007, Officer Hardell and Lt. Rafferty responded to 777 McDonough Street to verify an arrest. Two officers were already present—the officers who were arresting the male, § 87(2)(b). Officer Hardell does not recall if § 87(2)(b) had already been handcuffed, or if the arresting officers were waiting for a supervisor to arrive before handcuffing him. The male was standing, and he was being verbally belligerent. Officer Hardell does not remember if § 87(2)(b) was physically resisting the officers who were arresting him or what type of interactions he was having with the officers, because his attention was focused on a crowd of 10-20 civilians who were already present when Officer Hardell arrived, and were starting to get “belligerent.” These people were “not too happy” that § 87(2)(b) was being arrested, but Officer Hardell does not remember what they were saying. Officer Hardell had no direct contact, verbal or physical, with § 87(2)(b) and he did not assist in arresting him; Officer Hardell only performed crowd control during this incident, saying, “Get back, stay back.” Officer Hardell put his arms up in front of him while doing this but he did not have physical contact with anybody in the crowd. A couple of people from the crowd were taking pictures or recording the incident with cell phones.

§ 87(2)(b) was arrested and placed in a police vehicle. Officer Hardell did not see this process because he was doing crowd control; he does not recall any trouble occurring with § 87(2)(b) although § 87(2)(b) was acting belligerent throughout the incident. Meanwhile, a female struck Officer Daughtry in the face several times with a sandal. (Officer Daughtry was not present when Officer Hardell arrived; he either arrived in the van with Officer Hardell and Lt. Rafferty or in another RMP.) When this occurred, Officer Daughtry was standing closer to § 87(2)(b) than to the crowd of civilians, and Officer Hardell, who was 5-10 feet away from them, was looking back and forth between them and the crowd. Officer Hardell saw this female strike Officer Daughtry in the face at least twice. Officer Hardell does not believe Officer Daughtry was interacting with this female before she hit him; rather, she just came out of the crowd and “went after” him with her shoe. Officer Daughtry then arrested her, using minimal force to control her—to grab her and put her in handcuffs—because she was “going crazy” and flailing her arms. Officer Hardell did not see Officer Daughtry grab the female’s neck or otherwise choke her, nor did he see any other officer do this. He did not hear Officer Daughtry say, “That bitch hit me in the face” or use any other profanity. He does not remember if any other officer assisted Officer Daughtry in arresting the female. § 87(2)(b) must have noticed what happened between Officer Daughtry and the female because it was “pretty much right in front of him,” but Officer Hardell does not remember if § 87(2)(b) had any specific reaction to it, because § 87(2)(b) was acting belligerent the entire time.

§ 87(2)(b) did not appear to be injured, and he did not complain of being injured or ask for medical attention. Officer Hardell was present for 5-10 minutes, and left after the two arrested individuals were placed in police vehicles. Officer Hardell does not know who transported either prisoner to the 73rd precinct—he stated that they could have been in the van that he was in with Lt. Rafferty, but he has no recollections of transporting the prisoners, or specifically of ever stopping the van in order to quiet § 87(2)(b). Officer Hardell does not remember having any interactions with § 87(2)(b) at the stationhouse; he was not involved in processing the arrest and he did not strip search § 87(2)(b) nor is he aware of § 87(2)(b) being strip searched.

Sergeant Dameion Cox (Enclosures 8A-C, 9A-B)

On February 5, 2008, Sergeant Dameion Cox was interviewed at the CCRB. He had no memo book entries relating to this incident. He provided the following statement. On May 30, 2007, SGT Cox worked in uniform at the 73rd Precinct desk as the desk sergeant. He stated he was working from 11:05 PM to 08:02 AM. He was working nearby a T/S operator, but he did not recall who this individual was on this particular date. SGT Cox had no independent recollection of the incident. He was shown the arrest photographs of § 87(2)(b) and § 87(2)(b) he did not recognize them. The investigator provided some details about the complaint, but this did not help SGT Cox remember the incident. SGT Cox was shown the command log, and he stated he was not present when § 87(2)(b) was brought into the stationhouse, but he would have been present while § 87(2)(b) was detained in the cells later that evening. SGT Cox noted he was at the desk until approximately 4 AM according to the command log. SGT Cox stated the cells are behind glass, so the detainees can be seen, but, unless they are screaming, cannot be heard from the desk area. He stated he did not recall § 87(2)(b) at all, and he did not remember anyone requesting medical attention, complaining of injuries, or complaining about officers injuring him.

SGT Cox was shown § 87(2)(b)'s photographed injuries. He stated he had not seen anything like that on this evening. He stated the precinct was not so busy that night that he would have told anyone that they could not get medical attention because of a manpower shortage. He stated this had not happened on May 30, 2007. SGT Cox did not recall authorizing any strip-searches this evening either. He stated they would have been notated in the margin, and performed because there was suspicion that the individual was hiding weapons or contraband. SGT Cox stated that the command log did not indicate that § 87(2)(b) was strip-searched. The command log also noted that § 87(2)(b)'s physical condition was normal.

Police Documents

Communication Records (Enclosures 24A-H)

Sprint job # § 87(2)(b) documents that § 87(2)(b) was arrested by "hot spot" at 7:20PM. At 7:23PM, the "hot spot" lieutenant radios that there are two individuals under arrest and 1 MOS was removed to the hospital to be treated for minor injuries. At 7:29PM, an anonymous female caller states that she wants IAB at the location. Sprint job # § 87(2)(b) documents a call made at 7:29PM by a female caller § 87(2)(b) who states that a female was assaulted by a police officer while being arrested at the location. The 911 operator states that an IAB sergeant is needed at the location in regards. At 7:31PM, IAB log # 07-20648 is generated.

UF 61, OLBS (Enclosures 25A-B, 26A-F)

UF 61 # 2007-073-05198 notes that § 87(2)(b) was arrested on May 30, 2007 at 7:20PM at the northeast corner of MacDougal Street and Boyland Avenue for assault. The reporting officer, PO Darryl Carr, states that § 87(2)(b) "did prevent A/O from effecting a lawful arrest" and then "struck a MOS about the face with a shoe" as well as a closed fist causing lacerations. The MOS was removed to Downstate Hospital for treatment. The OLBS pertaining to § 87(2)(b)'s arrest notes the same information and adds that force was used against § 87(2)(b) to "overcome assault." The OLBS prepared in regards to § 87(2)(b)'s arrest notes that § 87(2)(b) was arrested at the same time and location by PO Carr. The narrative states that § 87(2)(b) caused public annoyance and alarm, resulting in the formation of a large group. § 87(2)(b) then pushed a police officer and resisted arrest by placing his arms underneath his body to avoid arrest. Physical force was used by officers in order to "prevent escape."

73rd Precinct Roll Calls (Enclosures 27A-Y)

The 73rd Precinct tour 2 roll call lists LT Rafferty as the special projects officer. The 73rd Precinct tour 3 roll call lists that PO Martinez was listed as CPU. PO Daughtry and PO Maldonado were assigned as Impact lieutenant's operator and impact coordinator respectively. They were assigned to vehicle # 134. SGT Cox, the officer that § 87(2)(b) asserted approached him after his strip-search, was working the desk during tour 1 on May 31, 2007. PO Carr was working an overtime tour; he did not appear on any of the roll calls.

Command Log, Prisoner Holding Pen Roster, Property Voucher (Enclosures 28A-B, 29A-B, 30A)

§ 87(2)(b)'s and § 87(2)(b)'s arrests were noted in the command log on May 30, 2007 at 7:40PM. § 87(2)(b)'s charges are listed as disorderly conduct and resisting arrest and § 87(2)(b)'s charges are assault and resisting arrest. Both individuals are noted as having normal physical/mental conditions and neither requested medical attention. There is no documentation that § 87(2)(b) was strip-searched. The prisoner

holding pen roster notes that § 87(2)(b) and § 87(2)(b) were guarded by PO Carr while they were at the 73rd Precinct, starting at 7:40PM. No injuries or medical attention is documented. Property voucher # § 87(2)(b) was prepared by PO Carr for § 87(2)(b). Four photographs were taken and vouchered as arrest evidence.

Line of Duty Paperwork, AIDED Reports (Enclosures 31A-G)

The Line of Duty injury report notes that officers responded to a 10-85 at the incident location when § 87(2)(b) interfered in the lawful arrest of her boyfriend, § 87(2)(b) by striking MOS Kaz Daughtry with a shoe and her fist. PO Maldonado's witness statement reiterates this information. The AIDED report prepared for PO Daughtry states that he was struck several times, causing lacerations to the face and right arm.

Medical Records (Enclosures 22A-B)

Though § 87(2)(b) asserted that he went to § 87(2)(b) Hospital to be treated for injuries he sustained as a result of this incident, § 87(2)(b) Hospital had no records of § 87(2)(b) receiving any medical treatment there subsequent to 2005.

§ 87(2)(b)

§ 87(2)(c), § 87(2)(b)

CCRB Histories

Officers (Enclosures 1A-G)

PO Darryl Carr has been a member of the NYPD for four years and he has no substantiated allegations in his CCRB history. PO Kaz Daughtry has been a member of the NYPD for two years and he has two substantiated allegations in his CCRB history. In case # 200710793, PO Daughtry was substantiated on allegations of ‘gun pointed’ and ‘threat of force,’ and charges were recommended. However, there was no penalty imposed by the NYPD. LT John Rafferty has been a member of the NYPD for twelve years and he has no substantiated allegations in his CCRB history. § 87(2)(g), § 87(4-b)

§ 87(2)(b). SGT Dameion Cox has been a member of the NYPD for eleven years, and he has no substantiated allegations in his CCRB history.

§ 87(2)(b)

Conclusions and Recommendations

Officer Identification

§ 87(2)(b) identified PO Carr and PO Martinez because he saw their names on their shields. PO 3, PO 4, and PO 5 were identified through the investigation based on § 87(2)(b)'s physical descriptions and based on their own CCRB statements as PO Hardell, PO Daughtry, and LT Rafferty, respectively.

Disputed Facts

It is not in dispute that PO Carr stopped § 87(2)(b) and that § 87(2)(b) and § 87(2)(b) were placed under arrest. At issue is whether: a) PO Carr was justified in stopping § 87(2)(b) b) PO Carr and LT Rafferty used physical force against § 87(2)(b) c) PO Daughtry used a chokehold and other types of physical force against § 87(2)(b) d) PO Carr, LT Rafferty, and SGT Cox failed to obtain medical attention for § 87(2)(b) e) officers, supervised by LT Rafferty, strip-searched § 87(2)(b) and f) PO Carr threatened § 87(2)(b) with the use of physical force.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegations Not Pled

§ 87(2)(b) alleged that PO Martinez grabbed him by his arm when placing him under arrest; however, this does not rise to the level of physical force and is therefore not being pled.

Allegation A: PO Darryl Carr stopped § 87(2)(b)

§ 87(2)(g)

Allegation B: PO Darryl Carr used physical force against § 87(2)(b)

Though it is not in dispute that a physical struggle occurred between § 87(2)(b) and PO Carr, the level of physical force that § 87(2)(b) alleged remains in question based on conflicting statements. § 87(2)(g)

Allegation C: PO Kaz Daughtry used a chokehold against § 87(2)(b)

Allegation D: PO Kaz Daughtry used physical force against § 87(2)(b)

§ 87(2)(b) alleged that PO Daughtry used a chokehold against § 87(2)(b) swung at her, and kned her. § 87(2)(b) failed to respond to the CCRB's efforts at contacting her and never provided a CCRB statement.

§ 87(2)(g)

Allegation E: LT John Rafferty used physical force against § 87(2)(b)

Allegation F: LT John Rafferty did not obtain medical treatment for § 87(2)(b)

Allegation G: PO Darryl Carr did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) alleged that LT Rafferty stopped the van during his transport and slapped him across the face. He also alleged that he requested medical attention from LT Rafferty and PO Carr, but both failed to obtain it. LT

Rafferty and PO Carr denied doing both of these things. § 87(2)(g)

Allegation H: LT John Rafferty supervised the strip-search of § 87(2)(b)

Allegation H is being pleaded against LT Rafferty, because he was the supervisor present during this allegation. Though § 87(2)(b) claimed he was strip-searched in the 73rd Precinct stationhouse, LT Rafferty and the other officers present denied that this occurred. There was no documentation that this took place.

§ 87(2)(g)

Allegation I: SGT Dameion Cox did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) claimed to have requested medical treatment from SGT Cox, but SGT Cox had no recollection of this. § 87(2)(g)

Allegation J: PO Darryl Carr threatened § 87(2)(b) with the use of physical force.

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: